FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1344 OF 2006

Office notes, office Memoranda of appearances, Court's orders or directions & Registrar's orders.	: Coram, : : : :	Court's or Judge's Orders .

Mr. A.P. Mundargi, Sr. Advocate with Ganesh Gole i/b M.S. Bodhanwalla & Co. for petitioner

Mr. F.R Shaikh, Addl.PP

Mr. C.K. Thomas for R-2

CORAM: SMT. RANJANA DESAI, J.
DATED:-13/12/2006

P.C.:-

In this petition, the petitioner has challenged order dated 5/6/06 passed by the Sessions Judge, Alibag, in Criminal Revision Application No. 95/04 confirming the order dated 3/3/04 passed by the Chief Judicial Magistrate at Alibag issuing process under Section 7A(2)(a) and (c) of the Factories Act, 1948 in Summary Criminal Case No. 188 of 2004.

2. I have heard Mr. Mundargi, learned counsel appearing for the

petitioner, Mr. Thomas for respondent 2 and the learned Additional P.P. for the State.

In short the case of the petitioner appears to be that respondent 2 has been working in the Department of Ammonia Plant of the petitioner for the last 20 years.

The accident took place in the Ammonia plant unit at Kard, Alibag. In that accident respondent 2 who was climbing on the angle from the supporting platform of the scaffolding stepped on the iron plate, fell down and suffered a fracture. The instant complaint came to be filed in respect of the said accident.

Mr. Mundargi, has drawn my attention to the affidavit filed by the 2nd respondent dated 2nd December, 2006, wherein he has stated that the RCF has always provided its employee with complete safety equipment for doing their work. He has submited that the aforesaid accident took place

only on account of his going on to (and standing on) the plate instead of working from the permanent platform. He has further stated that the mishap has occurred only on account of an accidental error and there has been no lapse of safety norms on the part of RCF Ltd. or on the part of any of its officials. The learned counsel for respondent 2 has reiterated this submission.

In view of this statement made on affidavit, Mr. Mundargi submitted that this Court should quash the proceeding pending in the court of Chief Judicial Magistrate, at Alibag.

I have also heard Mr. Shaikh, the learned Additional PP.

In the peculiar facts and circumstances of the case and considering the affidavit filed by the 2nd respondent and in the light of the judgment of this court in **B. S. Joshi & Ors. v. State of Haryana & Anr., (2003) 4 S C C 675** in my

opinion, the instant complaint deserves to be quashed. Hence the following order:

"The proceedings pending on the file of Chief Judicial Magistrate, Alibag, being Summary Criminal Case No.188 of 2004 are quashed. The trial court may be intimated about it forthwith.,

Petition is disposed of.

JUDGE.